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January 3, 1984

Dr. Ronald L. Powell, Commissioner
Department of Corrections
P.O. Box 14
Concord, NH 03301

Re: Municipal Probation Officers

Dear Commissioner Powell:

You requested our advice on the extent of your supervisory authority over municipal probation officers. It is our advice that you, as the Commissioner of the Department of Corrections, have the authority to specify the minimum qualifications for municipal probation officers, assign duties to them, supervise their work, and remove them from office.

The Department of Corrections was established by the legislature in 1983 Laws, Chapter 461. Section 20 of that Chapter amended RSA 504 relative to probation by adding a new section, RSA 504:21. That section establishes a new procedure for hiring municipal probation officers, namely, the district courts now have the authority to appoint one or more qualified municipal probation officers for their respective courts. That section further provides that you, pursuant to RSA 541, and after consultation with the State Personnel Department, shall adopt rules specifying the minimum qualifications for such municipal officers. Any officer appointed by a district court must meet those minimum qualifications and the court must so certify to you in writing. While none of the provisions of RSA 504:13 were formally repealed by the legislature in 1983, those provisions of that section that are irreconcilable with the terms of RSA 504:21 should be considered repealed by implication. That of course would still leave much of RSA 504:13 in tact. For instance, RSA 504:13 provides that "... All such officers shall be subject to supervision by the Board and each shall hold his officer during the pleasure of the Board ..." When the legislature



abolished the Board of Probation in 1983 Laws, Chapter 461:2. When it transferred all of the powers, functions, and duties of that Board to the Commissioner of Corrections. Thus, by the operation of those two sections, the Commissioner of Corrections now has the authority to supervise all municipal officers and each such officer holds his office at the pleasure of the Commissioner.

RSA 504:15, VII requires the municipal probation officers to perform any duties assigned to them by the Board of Probation. Again, because all of the powers of the Board of Probation were transferred to upon its abolition, you now have the authority to specify the duties of the municipal probation officer and require them to perform those duties.

I trust that the foregoing advice is responsive to your inquiry. If I may be of any further assistance, please do not hesitate to contact me.

Very truly yours,



Ronald F. Rodgers
Assistant Attorney General
Division of Legal Counsel

RFR/gla

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